

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

RODNEY EUGENE SMITH,

Plaintiff,

v.

CIVIL ACTION NO. 1:08-0968

JOHN GAITHER, C.C.M.,  
Federal Bureau of Prisons,

Defendant.

**MEMORANDUM OPINION AND ORDER**

By Standing Order, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of findings and recommendations regarding disposition pursuant to 28 U.S.C.A. § 636(b)(1)(B). Magistrate Judge VanDervort submitted to the court his Findings and Recommendation on August 7, 2009, in which he recommended that the District Court deny plaintiff's application to proceed in forma pauperis, deny the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, deny plaintiff's motions for summary judgment, and remove this case from the court's active docket.

In accordance with the provisions of 28 U.S.C.A. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's Findings and Recommendation. The failure of any party to file such objections constitutes a waiver of such party's right to a de

novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

The parties failed to file any objections to the Magistrate Judge's Findings and Recommendation within either thirteen-day period. Having reviewed the Findings and Recommendation filed by Magistrate Judge VanDervort, the court adopts the findings and recommendations contained therein. Accordingly, the court hereby:

1. **DENIES** plaintiff's application to proceed in forma pauperis;
2. **DENIES** the petition for writ of Habeas Corpus pursuant to 28 U.S.C. § 2241;
3. **DENIES** plaintiff's motions for summary judgment;
4. **DISMISSES** this case, and
5. **DIRECTS** the Clerk to remove it from the court's active docket.

The Clerk is further directed to forward a copy of this Memorandum Opinion and Order to plaintiff, pro se, and counsel of record.

**IT IS SO ORDERED** this 2nd day of September, 2009.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge